

United States Senate

March 3, 2009

Ms. Mary L. Schapiro
Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Dear Chairman Schapiro:

I am writing to request your prompt action to effectively regulate the practice of "naked short selling." Despite recent temporary rules put in place by the SEC, significant naked short selling continues to occur in the markets and the practice is still inappropriately depressing the value of investments in public companies.

Under current rules, anyone may sell shares short who has a "reasonable belief of being able to locate shares in the future." At best, this is a very weak test. At worst, this could be no limitation at all, certainly not one that can be effectively enforced.

In my view, it is critical that the SEC undertake an urgent and thorough review of the rules governing naked short selling, and determine how these rules should be revised.

Specifically, I request that the SEC undertake the following actions:

- 1. Reinstate the Uptick Rule.** We note that both you and Federal Reserve Chair Bernanke have recently expressed interest in restoring the Uptick Rule. Evidence suggests that financial market volatility can be traced to its repeal in 2007.
- 2. Establish a Mandatory Market-Wide Pre-Borrow Requirement.** We note that the original draft of Regulation SHO required pre-borrow *before* shares can be sold short.
- 3. Enforce the Mandatory Buy-In Requirement.** While this right exists, it is rarely enforced.

We request the SEC consider additional actions, including: tracking trades from inception to settlement instead of the current practice of netting large blocks of trades against each other; requiring that current and complete data be

provided by the Depository Trust Clearing Corporation to the public on the volume of failures to deliver and the identity of those failing to deliver; and, finally, making it clear that Regulation SHO covers all failures to deliver (not just those which occur in the DTCC's Continuous Net Settlement System).

I ask that the SEC review this request on an expedited basis, given the crisis in the markets and the danger to the U.S. economy.

I look forward to hearing from you and would appreciate a response - at a minimum indicating that a review is underway - by March 16, 2009.

Sincerely,

A handwritten signature in blue ink, appearing to read "E. Kaufman", with a long, sweeping horizontal line extending to the right.

Edward E. Kaufman
United States Senator